THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.18338 OF 2002

DATED:21.2.2006

Between:

Kurru Veeranna

…Petitioner

And

The Mandal Revenue Officer

Buttaigudem, West Godavari District

and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.18338 OF 2002

ORDER:

The petitioner claims to be owner of land admeasuring Acs.3.93 in R.S.No.481/2K (patta No.613) (hereafter called, subject land), situated at Ganapavaram Village of Buttaigudem Mandal, West Godavari District. The petitioner claims to have purchased the land under registered sale deed from the earlier owners who are also non-tribals. The Special Deputy Collector (Tribal Welfare), Kota Ramachandrapuram (K.R.Puram), initiated action under Section 3(2) of the A.P. Scheduled Areas Land Transfer Regulations, 1959 (for short, the Regulations). After conducting enquiry in S.R.No.182 of 1996 ordered eviction of the petitioners and further directed the Mandal Revenue Officer to assign the land to landless poor tribals. The said order was passed on 12.12.197, which was followed by an

ejectment decree and order for restoration of the land dt.16.11.1998.

Aggrieved by the orders of the Special Deputy Collector, petitioner filed W.P.No.34158 of 1998 and this Court disposed of the same on 9.12.1998 directing the Agent to the Government-cum-District Collector, West Godavari, to dispose of the appeal filed by the petitioner expeditiously and ordered status quo. Be it noted, the petitioner came to this Court earlier alleging that in spite of filing appeal before the Agent to Government, the same remained undisposed of and hence this Court passed the order for expeditious disposal. After obtaining orders of status quo from this Court, the petitioner approached the Mandal Revenue Officer when he came to know that the land was assigned to respondents 2 to 5. His applications for redressal by way of restoration of land proved futile. Therefore, the petitioner again filed the present Writ Petition seeking a Writ of Mandamus declaring the action of the Mandal Revenue Officer in issuing pattas to respondents 2 to 5 in S.No.481/2K as illegal and arbitrary.

This Court while admitting the Writ Petition suspended the proceedings of the Mandal Revenue Officer dt.16.6.2001 whereby and whereunder pattas were granted to contesting respondents. Respondents 2 to 5 filed W.V.M.P.No.656 of2005 and as it is a short matter, the matter was heard finally with the consent of the learned counsel for the contesting parties.

In the counter affidavit filed by respondents 2 to 5 it is stated that first respondent issued pattas to respondents 2 to 5 on 16.6.2001 and also possession was handed over and that the respondents are in continuous peaceful possession and enjoyment of the property. It is alleged that after obtaining interim orders from this Court, the petitioner is interfering with the possession and first respondent with the help of Police taken away the harvested crop and handed over the same to Panchayat Secretary while initiating proceedings under Section 145(1) of Code of Criminal Procedure, 1973. It is also contended by the contesting respondents that the petitioner is pursuing parallel remedies, which is impermissible in Writ Petition.

The learned counsel for the petitioner submits that while the appeal preferred by the petitioner is pending it was improper for the Mandal Revenue Officer to issue pattas to respondents 2 to 5. He further submits that petitioner alone is in possession of the land by reason of the interim orders passed by this Court and the Mandal Revenue Officer also issued orders under Section 145(1) of CrPC on 10.12.2004 directing delivery of paddy which was harvested in the land.

The learned counsel for respondents 2 to 5 submits that though the Special Deputy Collector passed orders on 12.12.1997 directing ejectment of the petitioner, the petitioner filed appeal against ejectment decree dt.16.11.1998 and that taking the same into consideration pattas were granted to respondents 2 to 5 who are tribals in 2001. He also submits that having filed appeals petitioner could not have filed another Writ Petition. Heard the learned Government Pleader for Social Welfare.

It is now well settled that when a Statute provides for remedy and such remedy is availed, mere pendency of the said remedy does not entitle the aggrieved person to file Writ Petition. In such a case, the petitioner has to get the redressal finally or by

way of interlocutory measure from the authority. In this case, the petitioner did not file any appeal against main order dt.12.12.1997 in S.R.No.182 of 1996 passed by the Special Deputy Collector, Tribal Welfare, K.R.Puram. He filed appeal only after receiving the ejectment order dt.16.11.1998. Whether or not he pursued the matter with expediency, alleging that the Agent to the Government did not pass orders, the petitioner filed W.P.No.34158 of 1998 and obtained interim orders of status quo from this Court. When he approached the Mandal Revenue Officer with copy of the order, then he came to know that on 16.6.2001 pattas were granted. There is no material to show that from the date of orders passed by this Court on 9.12.1998 till 16.6.2001 when pattas were granted to respondents 2 to 5 whether the petitioner is in possession or not. The proceedings of the Mandal Revenue Officer under Section 145 CrPC are of no assistance because as seen from the order, a copy of which is placed before this Court, the Mandal Revenue Officer passed orders based on the interim orders of this Court passed on 24.9.2002 in this case. Furthermore, as rightly pointed out by the learned counsel for contesting respondents, when once the petitioner has availed remedy of appeal, this Writ Petition is not maintainable. The petitioner on one hand and respondents 2 to 5 on the other hand are claiming that they are in possession of the land.

Therefore, while ordering status quo as on today, this Writ Petition is disposed of directing the Agent to the Government-cum-District Collector, West Godavari, to dispose of the appeal filed by the petitioner within a period of four weeks from the date of receipt of a copy of this order after giving notice to the petitioner and respondents 2 to 5. It shall be open to the parties to place all the material before the Government when the appeal is heard.

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(V.V.S.RAO, J)

21.2.2006

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